SUPREME COURT, U. S.

DEC 2 1

MICHAEL RODAK, JR.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-690

ANONYMOUS,

Petitioner,

v.

HENRY A. KISSINGER, Secretary,
United States Department of State, et al.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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HENRY A. KISSINGER, Secretary, United States Department of State, et al.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Petitioner Anonymous prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia Circuit entered in the above-entitled case on July 5, 1974.

CITATIONS TO OPINIONS BELOW

The opinion of the U.S. Court of Appeals for the District of Columbia Circuit is reported at 499 F.2d 1097 (D.C. Cir. 1974). The opinion of the U.S. District Court for the District of Columbia is unreported. Both opinions are reproduced in the Appendix.

JURISDICTION

The judgment of the U.S. Court of Appeals for the District of Columbia Circuit was entered on July 5, 1974. On September 23, 1974, Mr. Justice Brennan issued an order extending the time for filing this petition until December 2, 1974. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

QUESTION PRESENTED

Where the Government discharges an employee for refusing (1) to allow access to confidential medical records of his consultations with psychiatrists and (2) to submit to an interview with a Government psychiatrist, may the Government's action constitutionally be upheld in the face of a showing that it had a less intrusive means of furthering its interests?

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Constitution, Amendment I:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

U.S. Constitution, Amendment IV:

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon

probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

U.S. Constitution, Amendment V:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

U.S. Constitution, Amendment IX:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

STATEMENT OF THE CASE

Petitioner seeks review of a decision of the U.S. Court of Appeals for the District of Columbia Circuit which essentially affirmed the decision of the District Court granting summary judgment to respondents and thereby upheld petitioner's dismissal from his Government job.

Petitioner was a temporary employee in the Peace Corps, an agency in the Department of State. His job performance since he began work on November 14, 1968, had